

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRANDON MICHAEL GAMINO,
Plaintiff,
v.
WENDELL DWIGHT EMERSON,
Defendant.

Case No. 3:23-cv-00205-ART-CLB
ORDER

Pro se Plaintiff Brandon Michael Gamino brings this action under 42 U.S.C. § 1983 seeking damages for alleged constitutional violations arising from a criminal proceeding in California resulting in what Plaintiff alleges was an illegal incarceration. Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of United States Magistrate Judge Carla Baldwin (ECF No. 3) screening the complaint and recommending this action be dismissed without prejudice. The R&R also recommends that Plaintiff’s application to proceed *in forma pauperis* (ECF No. 1 (“IFP Application”)) be denied as moot. Plaintiff had until June 2, 2023 to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R, and will dismiss the case without prejudice.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one

1 or both parties file objections to the findings and recommendations.”) (emphasis
2 in original); Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (providing that
3 the Court “need only satisfy itself that there is no clear error on the face of the
4 record in order to accept the recommendation.”).

5 Because there is no objection, the Court need not conduct de novo review
6 and is satisfied Judge Baldwin did not clearly err. Here, Judge Baldwin
7 recommends dismissing the action without prejudice because the Court lacks
8 personal jurisdiction over the Defendant and because venue is improper in this
9 District. (ECF No. 3 at 4.) The Court agrees with Judge Baldwin. Having reviewed
10 the R&R and the record in this case, the Court will adopt the R&R in full.

11 IT IS THEREFORE ORDERED that Judge Baldwin’s Report and
12 Recommendation (ECF No. 3) is accepted and adopted in full.

13 IT IS FURTHER ORDERED that Plaintiff’s IFP Application (ECF No. 1) is
14 denied as moot.

15 IT IS FURTHER ORDERED that the Clerk file the complaint. (ECF No. 1-
16 1.)

17 IT IS FURTHER ORDERED that the complaint (ECF No. 1-1) be
18 DISMISSED WITHOUT PREJUDICE to the extent that Plaintiff can assert
19 plausible claims for relief in the court.

20 The Clerk of the Court is directed to enter judgment accordingly and close
21 this action.

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23 DATED THIS 9th day of November 2023.

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26 ANNE R. TRAUM
27 UNITED STATES DISTRICT JUDGE
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